

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-03-0995.M4

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement of \$14,443.59 for date of service, 02/12/01.
- b. The request was received on 02/08/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. Initial Submission of TWCC-60
 1. Position statement
 2. UB-92
 3. EOB(s)
 4. Itemized hospital charges
 5. Medical records
 6. Contested Case Hearing determination, dated 04/05/01
 - b. Additional documentation requested on 06/12/02 and received on 06/17/02
 1. Position statement
 2. UB-92
 3. EOB(s)
 4. Itemized hospital charges
 5. Request for reconsideration dated 01/14/02
 6. Medical records
 7. Contested Case Hearing determination, dated 04/05/01
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

2. Respondent, Exhibit II:

Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/19/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 06/21/02. The response from the insurance carrier was received in the Division on 08/01/02. Based on 133.307 (i) the insurance carrier's response is untimely so the Commission shall issue a decision based on the request.

3. Notice of additional information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor:

"It is the Hospital's contention that the services provided to (Claimant) were directly related to a compensable injury he suffered at his place of employment on August 14, 2000, and were provided pursuant to orders of his treating doctors. In the matter at hand, (Claimant's) treating physicians recommended that he have spinal surgery to relieve his condition. Furthermore, the carrier in this instance cannot now deny reimbursement for failure to obtain authorization when they were in fact disputing compensability of the claimant's injury at the time the services were provided. It is highly unlikely the carrier would have issued any authorization for any medical services related to an injury for which they were disclaiming all liability. Finally, if the carrier paid (Claimant's) surgeon's bills and never disputed the same as to the issue of authorization, then its decision to dispute and refuse to pay the Hospital's charges for failure to obtain authorization is simply unfair and unconscionable. Accordingly, the carrier has no reasonable basis to deny the Hospital's claim."

2. Respondent: The response was not timely and consequently not eligible for review.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 02/12/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. On 04/05/01, a Contested Case Hearing determination ruled in favor of the claimant and determined the Carrier is liable for compensation of medical benefits.
4. Per the Requestor's Table of Disputed Services, the Requestor billed the Carrier \$14,443.59 for services rendered on the date of service in dispute above.
5. Per the Requestor's Table of Disputed Services, the Carrier paid the Requestor \$0.00 for services rendered on the date of service in dispute above and denied any additional reimbursement as "A – PREAUTHORIZATION NOT OBTAINED."
6. Per the Requestor's Table of Disputed Services, the amount in dispute is \$14,443.59 for services rendered on the date of service in dispute above.
7. The Requestor appealed the Respondent's denial with a final adverse decision from the Carrier.

V. RATIONALE

Medical Review Division's rationale:

Medical records submitted by the Requestor substantiates services were rendered. Although the Carrier has denied reimbursement as “A – PREAUTHORIZATION NOT OBTAINED.”, spinal surgery does not require **pre-authorization**, rather a **second opinion process**, as addressed in TWCC Rule 134.600 (b) “Second opinions for spinal surgery are addressed in Chapter 133, Subchapter C of this title (relating to Second Opinions for Spinal Surgery).” TWCC Rule 133.206 (b) states, “The surgery must be related to the compensable injury and performed by a surgeon who was on the List at the time the TWCC-63 was filed with the Commission by the treating doctor or the surgeon.” There is not a TWCC-63 noted in the Division’s computer system indicating the second opinion process for spinal surgery was initiated. The Requestor has failed to follow the second opinion process for spinal surgery as required in TWCC 133.206. Reimbursement is not recommended.

The above Findings and Decision are hereby issued this 2nd day of October 2002.

Denise Terry
Medical Dispute Resolution Officer
Medical Review Division

DT/dt